

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

CUSTOMS AND TAX ADMINISTRATION OF
THE KINGDOM OF DENMARK
(SKATTEFORVALTNINGEN) TAX REFUND
SCHEME LITIGATION

MASTER DOCKET

18-md-02865-LAK

This document relates to: All Cases.

DECLARATION OF SHARON L. MCCARTHY

I, Sharon L. McCarthy, an attorney duly admitted to practice law before the courts of the State of New York, hereby declare under penalty of perjury:

1. I am a partner at Kostelanetz & Fink, LLP, counsel for John and Elizabeth van Merkensteijn, Azalea Pension Plan, Basalt Ventures LLC Roth 401(K) Plan, Bernina Pension Plan, Bernina Pension Plan Trust, Michelle Investments Pension Plan, Starfish Capital Management LLC Roth 401(K) Plan, Omineca Pension Plan, Omineca Pension Plan Trust, Remece Investments LLC Pension Plan, Tarvos Pension Plan, Voojo Productions LLC Roth 401(K) Plan, and Xiphias LLC Pension Plan in these actions. Except as otherwise stated, I am fully familiar with the matters set forth in this declaration.

2. I submit this declaration in support of Defendants' Memorandum of Law in support of their Motion for Issuance of a Request for International Judicial Assistance to Obtain Evidence in Denmark.

3. Attached hereto as Exhibit 1 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Dorthe Pannerup Madsen.

4. Attached hereto as Exhibit 2 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to René Frahm Jørgensen.

5. Attached hereto as Exhibit 3 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Leif Normann Jeppesen.

6. Attached hereto as Exhibit 4 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Jette Zester.

7. Attached hereto as Exhibit 5 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Birgitte Normann Grevy.

8. Attached hereto as Exhibit 6 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Richard Hanlov.

9. Attached hereto as Exhibit 7 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Laurits Cramer.

10. Attached hereto as Exhibit 8 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Jens Sørensen.

11. Attached hereto as Exhibit 9 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Peter Loft.

12. Attached hereto as Exhibit 10 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Kjeld Rasmussen.

13. Attached hereto as Exhibit 11 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Ivar Nordland.

14. Attached hereto as Exhibit 12 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Carl Helman.

15. Attached hereto as Exhibit 13 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Helen Sørensen.

16. Attached hereto as Exhibit 14 is a proposed Letter of Request for International Judicial Assistance Pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters related to Ditte Juulsgaard Andersen.

17. Attached hereto as Exhibit 15 is the Amended Complaint from *SKAT v. Bernina Pension Plan & John van Merkensteijn*, No. 19-cv-01865, Dkt. No. 53 (S.D.N.Y. Apr. 20, 2020).

18. Attached hereto as Exhibit 16 is the Answer to the Amended Complaint in *SKAT v. Bernina Pension Plan & John van Merkensteijn*, No. 19-cv-01865, Dkt. No. 63 (S.D.N.Y. June 29, 2020).

19. Attached hereto as Exhibit 17 is a translated transcript of Episode 1, *The Secret Shareholders*, DR (Nov. 6, 2020). The original Danish audio file from which the translation was derived can be accessed at <https://www.dr.dk/radio/p1/de-hemmelige-aktionaerer>.

20. Attached hereto as Exhibit 18 is a translated transcript of Episode 2, *The Secret Shareholders*, DR (Nov. 6, 2020). The original Danish audio file from which the translation was derived can be accessed at <https://www.dr.dk/radio/p1/de-hemmelige-aktionaerer>.

21. Attached hereto as Exhibit 19 is the 2010 Audit Report produced to defendants in this matter by plaintiff SKAT.

22. Attached hereto as Exhibit 20 is an English translation of the 2010 Audit Report, produced to defendants in this matter on January 15, 2021.

23. Attached hereto as Exhibit 21 is a translated transcript of Episode 4, *The Secret Shareholders*, DR (Nov. 6, 2020). The original Danish audio file from which the translation was derived can be accessed at <https://www.dr.dk/radio/p1/de-hemmelige-aktionaerer>.

24. Attached hereto as Exhibit 22 is a translated transcript of Episode 6, *The Secret Shareholders*, DR (Nov. 6, 2020). The original Danish audio file from which the translation was derived can be accessed at <https://www.dr.dk/radio/p1/de-hemmelige-aktionaerer>.

25. Attached hereto as Exhibit 23 is a news article by Matthias Sommer, dated September 24, 2019, and titled *Tidligere leder i Skat om udbyttesagen: Det hele var så uvirkeligt* [*Former head of Tax on the dividend case: It was all so unreal*]. The article is available at:

<https://www.dr.dk/nyheder/penge/tidligere-leder-i-skat-om-udbyttesagen-det-hele-var-saa-uvirkeligt>.

26. Attached hereto as Exhibit 24 is an English translation of Exhibit 23, which was generated using the “Google Translate” service, available at translate.google.com.

27. Attached hereto as Exhibit 25 are email communications by Dorthe Pannerup Madsen produced to defendants in this matter by plaintiff SKAT and Bates-stamped SKAT_MDL_001_00253505.

28. Attached hereto as Exhibit 26 is a news article by Matthias Sommer and Jakob Ussing, dated April 30, 2019, and titled *Tidligere skattedirektør i skudlinjen: Godkendte månedsregnskaber, menspengene fossede ud af statskassen* [Former tax director on the firing line: Approved monthly accounts while the money flowed out of the treasury]. The article is available at: <https://www.dr.dk/nyheder/penge/tidligere-skattedirektoer-i-skudlinjen-godkendte-maanedsregnskaber-mens-pengene>.

29. Attached hereto as Exhibit 27 is an English translation of Exhibit 26, which was generated using the “Google Translate” service, available at translate.google.com.

30. Attached hereto as Exhibit 28 is a news article by Jakob Ussing, dated October 27, 2020, and titled *Tidligere skatte-topchef: Jeg har et medansvar – men det er der flere, der har* [Former chief tax officer: I have a co-responsibility - but there are several who have]. The article is available at: <https://www.dr.dk/nyheder/penge/tidligere-skatte-topchef-jeg-har-et-medansvar-men-det-er-der-flere-der-har>.

31. Attached hereto as Exhibit 29 is an English translation of Exhibit 28, which was generated using the “Google Translate” service, available at translate.google.com.

32. Attached hereto as Exhibit 30 is a news article by Asger Skovdal Jepsen, dated March 19, 2019, and titled *Afhøringer i udbyttesagen: Knappe ressourcer, rodede IT-systemer og manglende kontrol skabte kaos* [*Interrogations in the dividend case: Scarce resources, cluttered IT systems and lack of control created chaos*]. The article is available at: <https://www.berlingske.dk/business/afhoeringer-i-udbyttesagen-knappe-ressourcer-rodede-it-systemer-og>.

33. Attached hereto as Exhibit 31 is an English Translation of Exhibit 30, which was generated using the “Google Translate” service, available at translate.google.com.

34. Attached hereto as Exhibit 32 is another news article by Jakob Ussing, dated May 22, 2019, and titled *Tidligere chef i Skat beskylder Karsten Lauritzen for politisk indblanding i hjemsendelser* [*Former head of Tax accuses Karsten Lauritzen of political interference in repatriations*]. The article is available at: <https://www.dr.dk/nyheder/penge/tidligere-chef-i-skat-beskylder-karsten-lauritzen-politisk-indblanding-i-hjemsendelser>.

35. Attached hereto as Exhibit 33 is an English translation of Exhibit 32, which was generated using the “Google Translate” service, available at translate.google.com.

36. Attached hereto as Exhibit 34 is another news article by Mathias Sommer dated March 4, 2020, and titled *Arbejdsgruppe i Skat 'løste' problemerne: Samtidig fossede udbytte-milliarder ud af statskassen* [*Working group in Tax 'solved' the problems: At the same time, dividend billions flowed out of the treasury*]. The article is available at: <https://www.dr.dk/nyheder/penge/arbejdsgruppe-i-skat-loeste-problemerne-samtidig-fossede-udbytte-milliarder-ud-af>.

37. Attached hereto as Exhibit 35 is an English translation of Exhibit 34, which was generated using the “Google Translate” service, available at translate.google.com.

38. Attached hereto as Exhibit 36 is a news article by Rasmus Bøttcher Christensen dated September 3, 2015, and titled *Tidligere medarbejder i Skat om milliardsvindel: - Det var en åben ladeport* [Former employee of Skat about billion fraud: It was an open charging port]. The article is available at: <https://www.dr.dk/nyheder/penge/tidligere-medarbejder-i-skat-om-milliardsvindel-det-var-en-aaben-ladeport>.

39. Attached hereto as Exhibit 37 is an English translation of Exhibit 36, which was generated using the “Google Translate” service, available at translate.google.com.

40. Attached hereto as Exhibit 38 is another news article by Mathias Sommer dated November 10, 2020, and titled *Rigsrevisor revser vigtig vagthund: Risiko for milliardsvindel nåede aldrig frem til de ansvarlige* [Auditor General reprimands important watchdog: Risk of billion-dollar fraud never reached those responsible]. The article is available at: <https://www.dr.dk/nyheder/penge/rigsrevisor-revser-vigtig-vagthund-risiko-milliardsvindel-naaede-aldrig-frem-til-de>.

41. Attached hereto as Exhibit 39 is an English translation of Exhibit 38, which was generated using the “Google Translate” service, available at translate.google.com.

42. Attached hereto as Exhibit 40 is a translated transcript of Episode 5, *The Secret Shareholders*, DR (Nov. 6, 2020). The original Danish audio file from which the translation was derived can be accessed at <https://www.dr.dk/radio/p1/de-hemmelige-aktionærer>.

43. Attached hereto as Exhibit 41 is a translated transcript of Episode 3, *The Secret Shareholders*, DR (Nov. 6, 2020). The original Danish audio file from which the translation was derived can be accessed at <https://www.dr.dk/radio/p1/de-hemmelige-aktionærer>

44. Attached as Exhibit 42 is an excerpt of the English translation of a report prepared by the Danish law firm Bech-Bruun in 2017 entitled “Advokatundersogelse” (Danish for “Lawyer Investigation”) and produced to Defendants by the Plaintiff SKAT. The original is publicly available in Danish at <https://www.skm.dk/aktuelt/publikationer/rapporter/advokatundersogelse-af-forholdene-vedr-vedrskats-udbetaling-af-refusion-af-udbytteskat>.

I, Sharon L. McCarthy, declare under penalty of perjury that the foregoing is true and correct.

Dated: March 6, 2021
New York, NY

/s/ Sharon L. McCarthy
Sharon L. McCarthy